

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

COLUMBIA MEMORIAL HOSPITAL

and

**1199 SEIU UNITED HEALTHCARE
WORKERS EAST**

**Cases 03-CA-120636
03-CA-122557
03-CA-124333
03-CA-124803
03-CA-124816**

**GENERAL COUNSEL’S REPLY BRIEF TO
RESPONDENT’S ANSWERING BRIEF**

Pursuant to Section 102.46(h) of the Board’s Rules and Regulations, Counsel for the General Counsel hereby submits this Reply Brief to Respondent’s Answering Brief in the above-captioned cases. It is respectfully submitted that in all respects, other than what is excepted to herein, the findings of the ALJ are appropriate, proper and fully supported by the credible record.

I. INTRODUCTION

In its Answering Brief, Respondent makes inaccurate assertions about the proper remedy in this matter. Contrary, to Respondent’s assertions, the arguments set forth in the General Counsel’s Brief in Support of Cross-Exceptions are supported by the record and law.

II. ARGUMENT

The ALJ inadvertently omitted from his recommended Order and Notice to Employees certain language that is standard in remedies relating to the duty to furnish information necessary and relevant to the collective-bargaining process. (Exceptions 1-2)

Among other conclusions of law, the ALJ found that Respondent violated Section 8(a)(5) and (1) of the Act by failing and refusing to furnish relevant and necessary information for the

fair representation of employee Cindy Northrup in the grievance process. (ALJD at 30:30-33).¹ However, the ALJ inadvertently omitted from his recommended Order that Respondent cease and desist from refusing to furnish to the Union information that is relevant and necessary for the fair representation of Northrup in the grievance process. The ALJ also inadvertently omitted from his recommended Notice to Employees, the affirmative paragraph whereby Respondent is required to provide the information relating to the discipline of Northrup requested by the Union since about February 21, 2014.

Respondent asserts in its Answering Brief that the language provided by the General Counsel is not standard language in an information request case. However, the language proposed by the General Counsel in its Brief in Support of Cross-Exceptions to the Decision of the Administrative Law Judge is standard in 'cease and desist' Orders and the corresponding Notices to Employees issued by the Board in cases regarding the duty of employers to furnish information for carrying on the collective-bargaining process.

See McKenzie-Willamette Medical Center, 362 NLRB No. 20, slip op. at 2-3 (February 24, 2015):

Cease and desist from

(a) Refusing to bargain with Service Employees International Union, Local 49, CWT-CLC, by unreasonably delaying and/or failing and refusing to furnish it with requested information that is relevant and necessary to the Union's performance of its functions as the collective-bargaining representative of the Respondent's unit employees.

NOTICE TO EMPLOYEES

¹ Throughout this brief the following references will be used: ALJD at ____: ____ for the Administrative Law Judge's Decision at page(s): line(s).

We will furnish to the Union in a timely manner the information requested by the Union on October 17, 2013.

Salem Hospital Corp., 360 NLRB No. 95, slip op. at 3-5 (April 30, 2014):

Cease and desist from

(b) Refusing to bargain collectively with the Union by failing and refusing to furnish it with requested information that is relevant and necessary to the Union's performance of its functions as the collective-bargaining representative of the Respondent's unit employees.

NOTICE TO EMPLOYEES

We will furnish to the Union in a timely manner the information requested by the Union on February 11, 2013.

See also Conditioned Air Systems, 360 NLRB No. 97 (April 30, 2014); McIntosh Mirror, Door & Glass, Inc., 358 NLRB No. 149 (2012); Quantum Hotels, LLC, 358 NLRB No. 122 (2012).

As evidenced by the above-mentioned cases, such language is standard in Board rulings and is appropriate herein. The ALJ's findings regarding Respondent's duty to furnish information is limited to certain specific requests made by the Union since February 21, 2014 relating to the discipline of employee Northrup, and thus does not provide carte blanche for the Union to make future demands for information as argued by Respondent. Also, although Respondent argues to the contrary, it is axiomatic that the ALJ's conclusion of law regarding the information request allegation should be accompanied by a corresponding 'cease and desist' Order and provision in the Notice to Employees.

III. CONCLUSION

For all the reasons set forth above, General Counsel respectfully requests that the Board grant the General Counsel's Cross-Exceptions to the Decision of the Administrative Law Judge.

General Counsel further requests that the Board issue an order otherwise affirming and adopting the Decision and Recommendations of the ALJ.

DATED at Albany, New York, this 23rd day of March 2015.

Respectfully submitted,

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